

Message Text

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PAGE 01 ABU DH 00283 01 OF 02 261011Z
ACTION EB-08

INFO OCT-01 NEA-10 ISO-00 /019 W
-----261016Z 049231 /10

R 260605Z JAN 77
FM AMEMBASSY ABU DHABI
TO USDOC WASHDC
INFO SECSTATE WASHDC 5538
AMEMBASSY ALGIERS
AMEMBASSY AMMAN
USINT BAGHDAD
AMEMBASSY CAIRO
AMEMBASSY DAMASCUS
AMEMBASSY DOHA
AMEMBASSY JIDDA
AMEMBASSY KUWAIT
AMEMBASSY MANAMA
AMEMBASSY MUSCAT
AMEMBASSY RABAT
AMEMBASSY SANA
AMEMBASSY TEHRAN
AMEMBASSY TEL AVIV
AMEMBASSY TRIPOLI
AMEMBASSY TUNIS

UNCLAS SECTION 1 OF 2 ABU DHABI 0283

DEPARTMENT PASS BAGHDAD

E.O. 11652: NA
TAGS: BENC BGEN TC
SUBJ: CONTRACTING RULES, PRACTICES AND BARGAINING TECHNIQUES
IN ABU DHABI.

REF: 76 STATE A-5955

FOLLOWING RESPONSES (WHICH KEYED TO REPAIR) COVER
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ABU DHABI ONLY. CONTRACTING PRACTICES IN DUBAI AND
OTHER EMIRATES ARE DIFFERENT AND THESE WILL BE COVERED
IN SEPTTEL. ADDITIONAL INFORMATION IS INCLUDED IN
EMBASSY PUBLICATION "DOING BUSINESS IN ABU DHABI -
A GUIDE FOR BUSINESSMEN" COPIES OF WHICH ARE AVAILABLE
FROM CAGNE UAE DESK OFFICER.

1. GENERALLY BOTH PRIVATE AND PUBLIC SECTOR CONTRACTS MUST BE FIXED-PRICE WITHOUT ESCALATION CLAUSES. REASON FOR THIS USUALLY GIVEN BY GOV'T OFFICIALS IS THAT ABU DHABI DOESN'T HAVE SUFFICIENT MANPOWER TO ADMINISTER COST-PLUS OR FIXED-FEE-PLUS-EXPENSES CONTRACTS. HOWEVER, WE HAVE HEARD FROM VARIOUS SOURCES THAT LARGE JEBEL DHANNA INDUSTRIALIZATION CONTRACTS TO BE LET BY ABU DHABI NATIONAL OIL COMPANY (ADNOC), WHICH HAS THE STAFF AND EXPERTISE TO OVERSEE COMPLEX CONTRACTS, WILL BE FIRST MAJOR EXCEPTIONS TO GENERAL POLICY. ANOTHER INSTANCE IN WHICH U.S. CONTRACTOR HAD SOME RELIEF FROM FIXED-PRICE REQUIREMENT WAS IN JOINT VENTURE WITH LOCAL FIRM IN WHICH LOCAL PARTNER AGREED TO GUARANTEE TO U.S. PARTNER THE PRICES OF ALL LOCALLY PURCHASED COMMODITIES AND LABOR ON BID FOR LARGE GOV'T PROJECT. UNFORTUNATELY, THE JOINT VENTURE WAS NOT LOW BIDDER ON PROJECT IN QUESTION. FOR ADDITIONAL INFO SEE "DOING BUSINESS IN ABU DHABI".

2. SEE "DOING BUSINESS IN ABU DHABI". IMPORTED MACHINERY IS NOT ACCEPTABLE SUBSTITUTE FOR THE STANDBY LETTER OF CREDIT WHICH CONSTITUTES THE PERFORMANCE GUARANTEE. IN THE ONE INSTANCE WE KNOW OF IN WHICH PERFORMANCE GUARANTEE WAS CALLED (I.E. STANDBY L/C WAS EXERCISED), THE CONTRACTOR'S MACHINERY WAS ALSO SEIZED AND BECAME THE PROPERTY OF THE ABU DHABI GOVERNMENT. GOV'T HAS SO FAR BEEN UNWILLING TO ACCEPT SURETY BONDS.

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3. "FORCE MAJEURE" IS CONSIDERED TO BE "UNFORESEEN CIRCUMSTANCES" SUCH AS WAR AND NATURAL DISASTERS. LABOR DISPUTES AND DELIVERY DELAYS DUE TO PORT CONGESTION ARE NOT CONSIDERED TO BE "FORCE MAJEURE". FOURFOLD INCREASE IN PETROLEUM PRICE IN 1973 WHICH UNEXPECTEDLY INCREASED KELLOGG'S COSTS FOR CONSTRUCTION OF ABU DHABI'S 15,000 B/D REFINERY WAS CONSIDERED TO BE SUFFICIENT CAUSE FOR AN ADJUSTMENT TO THE CONTRACT PRICE, BUT THE AMOUNT OF ADDITIONAL COMPENSATION WAS ARRIVED AT ONLY AFTER LONG NEGOTIATION.

4. WHEN TRAINING IS TO BE PROVIDED IT IS A BID ITEM.

5. CONTRACTORS MUST PREFERENTIALLY HIRE ANY UAE NATIONALS WHO HAVE REGISTERED THEIR AVAILABILITY WITH THE MINISTRY OF LABOR (WHICH ACTS AS NATIONAL EMPLOYMENT AGENCY). ACCORDING TO U.S. CONTRACTS HERE, THIRD COUNTRY LABOR IS COMPARABLE IN QUALITY WITH THAT IN U.S. EXCEPT FOR COMMUNICATIONS PROBLEM (MANY WORKERS SPEAK NEITHER ENGLISH

NOR ARABIC). NATIVE ABU DHABIANS GENERALLY WORK ONLY AS DRIVERS OR GUARDS. LABOR SUPPLY TENDS TO FLUCTUATE AS MAJOR CONTRACTS ARE BEGUN AND COMPLETED, AND A CONTRACTOR MAY FIND A SHORTAGE OF LABOR ONE MONTH AND A SURFEIT THE NEXT. UNSKILLED LABORERS GET 30 DH PER DAY AND TRADESMEN GET 80 TO 90 DH PER DAY (1 DOLLAR EQUALS 3.94 CH).

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FM AMEMBASSY ABU DHABI
TO USDOC WASHDC
INFO SECSTATE WASHDC 5539
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DEPARTMENT PASS BAGHDAD

IF CONTRACTOR'S PROJECT IS MORE THAN 10 KILOMETERS FROM ABU DHABI TOWN OR AL-AIN A CAMP (HOUSING AND FOOD) MUST BE PROVIDED. PROVISION OF CLOTHING OR RECREATIONAL FACILITIES IS NOT REQUIRED. MEDICAL CARE IS PROVIDED BY THE ABU DHABI GOV'T, BUT IF A CONTRACTOR'S EMPLOYEE IS HOSPITALIZED THE CONTRACTOR IS BILLED 100 DH PER DAY.

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THERE ARE NO INCOME TAXES IN UAE FOR INDIVIDUALS. WORK AND RESIDENCE PERMITS ARE REQUIRED FORMALITY, BUT NOT A GREAT PROBLEM. THIRD COUNTRY NATIONALS ARE PAID IN CASH (DIRHAMS). CONTRACTOR IS REQUIRED TO WITHHOLD CONTRIBUTION FOR PLO FUND FROM WAGES OF PALESTINEAN WORKERS.

UAE HAS A LABOR LAW OF 37 SECTIONS WHICH GOES INTO DETAIL ON SEVERAL OF THE POINTS. COPY IS BEING POUCH-ED TO CAGNE.

6. FEW YEARS AGO SOME CONTRACTS PROVIDED FOR ARBITRATION AT INTERNATIONAL CHAMBER OF COMMERCE IN PARIS ACCORDING TO THE LAW OF GREAT BRITAIN. MORE RECENT CONTRACTS CALL ONLY FOR ARBITRATION IN ABU DHABI ACCORDING TO THE LAWS OF ABU DHABI. AS FAR AS WE ARE AWARE NO ABU DHABI CONTRACT HAS ACTUALLY GONE TO ARBITRATION (THOUGH IN ONE CASE CONTRACTOR THREATENED TO EXERCISE HIS RIGHTS UNDER THE CONTRACT TO CALL FOR ARBITRATION). U.S. CONTRACTORS HERE SAY THEY BELIEVE IT UNLIKELY ABU DHABI GOV'T WILL ACCEPT ANOTHER CONTRACT PROVIDING FOR ARBITRATION OUTSIDE OF UAE.

7. SEE "DOING BUSINESS IN ABU DHABI".

8. FORMATION OF ABU DHABI CORPORATIONS IS ONLY BY EMIRI DECREE - AND THUS NOT A PRACTICAL SOLUTION FOR MOST CONTRACTORS. PARTNERSHIPS WITH LOCAL CONTRACTORS CAN BE FORMED, AND THIS EXPEDIENT OFFERS SOME IMPORTANT ADVANTAGES TO THE U.S. PARTNER. SEE "DOING BUSINESS" FOR DETAILS. EXAMPLES OF PARTNERSHIPS OF LOCAL CONTRACTORS AND U.S. CONTRACTORS ARE AL QUEBEISI-DRAVO WHICH RECENTLY BID (BUT LOST) ABU DHABI CIVIL AIRPORT TERMINAL, AND AL JABER-GROVES WHICH IS WORKING ON NUMBER OF MODEST CIVIL JOBS IN ABU DHABI.

9. NORMALLY AN ADVANCE PAYMENT OF 10 PER CENT IS MADE-THOUGH LOCAL CONTRACTORS (AND JOINT VENTURES IN WHICH THE LOCAL PARTNER IS THE MAJORITY PARTNER) GET DOUBLE
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THIS ADVANCE PAYMENT IS MADE ONLY AGAINST BANK GUARANTEE. COLLATERAL FOR BANK GUARANTEE, WHICH VARIES DEPENDING ON CONTRACTOR'S RELATIONSHIP WITH HIS BANK AND ON THE NATURE (AND LOCATION) OF THE COLLATERAL, HAS SOMETIMES BEEN CASH DEPOSIT EQUAL TO 100 PER CENT OF

AMOUNT OF ADVANCE PAYMENT.

10. LOCAL SUPPLY NOT GENERALLY REQUIRED. WE KNOW OF ONE INSTANCE IN WHICH ABU DHABI GOV'T HAD CONSULTANT SPECIFY THAT PVC PIPE BE SUPPLIED FROM LOCAL FACTORY, HOWEVER, IN THIS INSTANCE IT WAS ALSO SPECIFIED THAT PRICE SHOULD NOT EXCEED LANDED PRICE OF IMPORTED SUBSTITUTE. AS INDUSTRY IN UAE STILL EMBRYONIC THIS HAS NOT YET BEEN SERIOUS PROBLEM. CONTRACTORS CAN EXPECT LOCAL EXCLUSIVE AGENTS TO INSIST ON COMMISSION FOR ITEMS PURCHASED BY CONTRACTOR DIRECTLY FROM PRINCIPAL AND IMPORTED BY CONTRACTOR INTO UAE. NORMALLY PRINCIPAL REFUSES, AGENT CAN BRING PRESSURE TO BEAR AGAINST CONTRACTOR FOR COMMISSION PAYMENT.

11. NO BONDED AREAS IN ABU DHABI. CUSTOMS DELAY IN ABU DHABI ARE MINIMAL. PORT DELAYS HERE ARE CAUSED PRINCIPALLY BY PHYSICAL GKMITATIONS OF PORT FACILITIES. SEE 76 ABU DHABI A-12 FOR MORE DETAIL ON ABU DHABI PORT.

12. USE OF ENGLISH LANGUAGE IS USUALLY SPECIFIED IN TENDER DOCUMENTS. METRIC SYSTEM GENERALLY PREFERRED THOUGH SOME DEPARTMENTS OF ADG STILL USING ENGLISH UNITS.

13. THERE ARE NO INCOME TAXES LEVIED ON CONTRACTORS IN ABU DHABI. DETAILS OF REGISTRATION FEES AND CHAMBER OF COMMERCE MEMBERSHIP FEES (MANDITORY) ARE IN "DOING BUSINESS".

14. WHETHER EQUIPMENT MAY OR MAY NOT BE EXPORTED IS NEGOTIABLE AND IS USUALLY SPECIFIED IN CONTRACT. ON GOV'T CONTRACTS WHICH PROVIDE FOR LOCAL SALE OF USED UNCLASSIFIED

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EQUIPMENT, THE CONTRACTING GOV'T AGENCY FREQUENTLY HAS FIRST RIGHT OF REFUSAL.

15. NEGOTIATION AFTER BID OPENINGIS VERY COMMON, BUT IT IS USUALLY ONLY LOWEST ONE OF TWO BIDDERS WHO GET CHANCE TO NEGOTIATE. GOV'T HAS GENERRALLY BEEN FLEXIBLE ON MOST POINTS EXCEPT THE FIXED-PRICE/COST-PLUS QUESTION. CONTRACTORS WHO WILL NOT BID FIXED -PRICE DO NOT GET OPPORTUNITY TO NEGOTIATE.

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